

**UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

In re:

Chapter 11

Midnight Madness Distilling, LLC

Case No. 21-11750(MDC)

**DEBTOR’S SUPPLEMENT TO
EXPEDITED MOTION FOR ENTRY OF AN ORDER: (I) APPROVING THE SALE OR
SALE OF UP TO SUBSTANTIALLY ALL OF THE DEBTOR’S ASSETS, AND THE
ASSUMPTION AND ASSIGNMENT OF CERTAIN EXECUTORY CONTRACTS AND
UNEXPIRED LEASES, (II) APPROVING CERTAIN BIDDING PROCEDURES,
ASSUMPTION AND ASSIGNMENT PROCEDURES, AND THE FORM AND MANNER
OF NOTICE THEREOF, (III) SCHEDULING HEARINGS FOR
SUCH RELIEF AND (IV) GRANTING RELATED RELIEF**

Debtor, Midnight Madness Distilling, LLC (the “Debtor”), by and through its undersigned counsel, files this Supplement (the “Supplement”) to the Debtor’s Motion for Entry of an Order: (i) Approving the Sale or Sale of up to Substantially All of the Debtor’s Assets, and the Assumption and Assignment of Certain Executory Contracts and Unexpired Leases, (ii) Approving Certain Bidding Procedures, Assumption and Assignment Procedures, and the Form and Manner of Notice Thereof, (iii) Scheduling Hearings for Such Relief and (iv) Granting Related Relief filed on June 21, 2021 [Docket No. 4] (the “Motion”)¹ and respectfully represents as follows:

1. After hearings on the Motion on July 14th and 21st, 2021 as well as subsequent negotiations with parties in interest, the Bidding Procedures Order and the APA have been revised. Both documents will be filed contemporaneously with this Supplement.

¹ All capitalized terms not otherwise defined herein shall have the respective meanings ascribed thereto in the Motion.

2. The APA, as now revised, is generally summarized as follows:²

- i. A Purchase Price of \$1,025,000 cash, plus the assumption of certain secured debt, for all or substantially all of the Debtor's Assets free and clear of liens, claims and encumbrances (other than as otherwise specifically assumed by the APA);
- ii. **The Buyer will no longer assume the liability for the Debtor's trade debts;**
- iii. Assumption and cure of all/substantially all leases and contracts needed for Debtor's business operations;
- iv. Assumption of the first mortgage of Francis E. Stubbs and Maria Del Carmen Nuno for the Debtor's real property located at 118 N. Main Street, Trumbauersville Borough, Bucks County, Pennsylvania;
- v. Continued employment of all or substantially all of the Debtor's current employees;
- vi. Entry into a Master Subcontract Agreement and sublease arrangement that will enable the Buyer to subcontract operations to Debtor while Buyer obtains its own licenses from the Pennsylvania Liquor Control Board; and
- vii. Additional changes to the APA include that: the Buyer is liable to pay any and all Cure costs related to any Assumed Contracts, the Buyer's Expense Reimbursement is only payable to the extent approved upon motion to the Court, and the adequate assurance detail is more streamlined.

3. The Bidding Procedures, as now revised, notably states in Paragraph 6(k) that:

the aggregate consideration proposed by the Qualifying Bidder (other than the Buyer) must equal or exceed the sum of the amount of (A) the

² This is a summary only provided for a general understanding of the transaction represented in the APA. If there is any contradiction or differences between this summary and the APA, the specific terms of the APA shall exclusively control.

cash purchase price under the APA (\$1,025,000), plus (B) the amount of the secured debts to be assumed under the APA, totaling \$447,824.49), plus (C) the maximum amount of the expense reimbursement (\$100,000), plus (D) \$50,000.

4. The Bid Procedures is now revised to provide that, in the event that a Qualified Bid emerges, an Auction will occur with subsequent bid increments of \$50,000.

5. The Bidding Procedures Order, as now revised, will be approved with the following timeline (all times in ET):

Event	Proposed Dates
Deadline to serve Sale Notice, including to potential purchasers by first class mail	One business day after Bidding Procedures Order is entered
Deadline to serve Assumption Notice	One business day after Bidding Procedures Order is entered
Deadline to object to Assumption Notice (other than adequate assurance)	August 25, 2021 at 4:00 p.m.
Deadline to object to Sale (other than with respect to assumption and assignment)	August 25, 2021 at 4:00 p.m.
Bid Deadline	August 20, 2021 at 12:00 p.m.
Auction, if any, commence	August 23, 2021 at 10:00 a.m.
Deadline to object to adequate assurance	August 25, 2021 at 4:00 p.m.
Deadline to Object to Conduct of Auction	At Sale Hearing
Sale Hearing	August 27, 2021 at 10:30 a.m. (via zoom)
Projected Outside Closing Date	September 3, 2021

6. The Debtor respectfully submits that the timeline set forth herein is reasonable and necessary under the circumstances of these cases. Such timeline will allow parties in interest sufficient time to determine whether to formulate competing bids.

7. Further, Casey Parzych submits a Supplemental Declaration in connection with the relief requested in the Motion.

8. Notice of this Supplement has been provided to: (a) the Office of the United State Trustee; (b) counsel to PNC, N.A.; (c) all of the creditors listed on the Debtor's matrix; (d) all applicable federal, state and local taxing and regulatory authorities having jurisdiction over the Assets and the Pennsylvania Liquor Control Board; (e) all parties known to the Debtor who hold any lien or security interest in the Debtor's Assets who have filed UCC-1 financing statements against the Debtor, or who, to the Debtor's knowledge, have asserted any liens on any of the Debtor's Assets; and (f) all parties who have filed a notice of appearance and request for service of papers pursuant to Bankruptcy Rule 2002. In light of the nature of the relief requested herein, the Debtor submit that no other or further notice is necessary.

WHEREFORE, the Debtor submits this Supplement in connection with the Motion and seeks entry of the Bidding Procedures Order and the Sale Order granting the relief requested in the Motion and such other and further relief as is just and proper.

Dated: July 30, 2021

FLASTER/GREENBERG P.C.

/s/ William J. Burnett

William J. Burnett (Bar No. 75975)
Harry J. Giacometti (Bar No. 55861)
1835 Market Street, Suite 1050
Philadelphia, PA 19103
(215) 279-9383 Telephone
william.burnett@flastergreenberg.com
Counsel for Debtor

